



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

January 18, 1991

Mr. Philip Barnes
Commissioner
State Board of Insurance
1110 San Jacinto
Austin, Texas 78701-1998

OR91-033

Dear Mr. Barnes:

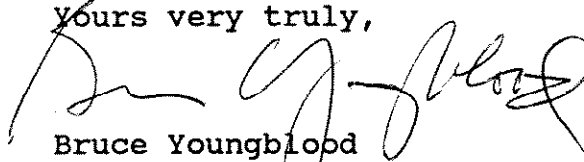
You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your original request was assigned ID# 10645; your most recent correspondence was assigned ID# 11365.

The State Board of Insurance (the board) received an open records request for "physicians who have been taken in by" P.R.I.M.E., Co., Ltd., which is currently under investigation by the board for alleged unauthorized insurance activities. You state that the only list of physicians who have carried medical liability insurance with P.R.I.M.E. consists of those who have filed complaints against that company. Based on your representation that the board anticipates litigation as a result of its investigation, the requested list comes under the protection of section 3(a)(3) of the Open Records Act as information that relates to reasonably anticipated litigation. See generally Open Records Decision No. 551 (1990). Consequently, the board may withhold the information from the requestor at this time.

We assume, however, that none of the information in the records at issue has previously been made available to representatives of P.R.I.M.E. Absent special circumstances, once information has been obtained by all parties to the litigation, e.g. through discovery or by court order, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the board has released any of the requested information to the parties under investigation, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-033.

Yours very truly,



Bruce Youngblood
Assistant Attorney General
Opinion Committee

BY/RWP/le

Ref.: ID# 11365
ID# 10645

cc: Karen J. Cox
Staff Attorney
Legal Counsel, Compliance 016-1
State Board of Insurance

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